

AMENDED IN ASSEMBLY SEPTEMBER 10, 2015

AMENDED IN SENATE AUGUST 24, 2015

AMENDED IN SENATE AUGUST 17, 2015

**SENATE BILL**

**No. 168**

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**Introduced by Senators Gaines and Jackson**

(Principal coauthor: Assembly Member Gatto)

**(Coauthors: Senators Anderson, Bates, Berryhill, Cannella, Fuller, Huff, Leno, McGuire, Morrell, Nielsen, Roth, and Runner, and Stone)**

(Coauthors: Assembly Members Travis Allen, Bigelow, Brown, Chávez, Cooper, Dahle, Beth Gaines, Jones, Lackey, Mathis, Mayes, Obernolte, and Rodriguez)

February 5, 2015

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An act to *add Section 43.101 to the Civil Code*, to add Chapter 4.5 (commencing with Section 853) to Part 2 of Division 3.6 of Title 1 of the Government Code, and to add Section 402.5 to the Penal Code, relating to unmanned aircraft systems, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 168, as amended, Gaines. Unmanned aircraft systems.

~~Existing~~

(1) *Existing* law makes it a misdemeanor to engage in disorderly conduct that delays or prevents a fire from being timely extinguished or to resist or interfere with the lawful efforts of a firefighter in the discharge of an official duty. Existing law makes it a misdemeanor to impede police officers, firefighters, emergency personnel, or military

personnel in the performance of their duties in coping with an emergency.

This bill would make it unlawful to knowingly, intentionally, or recklessly operate an unmanned aircraft or unmanned aircraft system, as defined, in a manner that prevents or delays the extinguishment of a fire, or in any way interferes with the efforts of firefighters to control, contain, or extinguish a fire. The bill would make a violation of this prohibition punishable by imprisonment in a county jail not to exceed 6 months, by a fine not to exceed \$5,000, or by both that fine and imprisonment. By creating a new crime, this bill would impose a state-mandated local program.

~~The~~

*(2) Existing law provides certain individuals with immunity from civil liability under specific circumstances, including, among others, limiting the civil liability of a person who in good faith, and not for compensation, renders emergency medical or nonmedical care at the scene of an emergency, as specified.*

*This bill would further limit the exposure to civil liability of an emergency responder, defined as an unpaid volunteer or private entity acting within the scope of authority implicitly or expressly provided by a public entity or a public employee to provide emergency services, for damages to an unmanned aircraft or unmanned aircraft system, if the damage was caused while the emergency responder was performing specific emergency services and the unmanned aircraft or unmanned aircraft system was interfering with the provision of those emergency services.*

*(3) The Government Claims Act sets forth the general procedure for the presentation of a claim as a prerequisite to the commencement of an action for money or damages against a “public entity” or a “public employee,” and defines those terms for its purposes. The act prohibits liability against a public entity or public employee for, among other things, certain acts relating to the provision of fire protection and police and correctional activities, as specified.*

*This bill would further limit the exposure to civil liability ~~by an emergency responder, defined to include of a public entity, entity or public employee, and an unpaid volunteer, as specified,~~ employee for damages damage to an unmanned aircraft or unmanned aircraft system, if the damage was caused while the ~~emergency responder~~ public entity or public employee was performing specific emergency services and*

the *unmanned aircraft* or unmanned aircraft system was interfering with the provision of those emergency services.

~~The~~

(4) *The* California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

~~This~~

(5) *This* bill would declare that it is to take effect immediately as an urgency statute.

Vote:  $\frac{2}{3}$ . Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 43.101 is added to the Civil Code, to read:  
2     43.101. (a) An emergency responder shall not be liable for  
3     any damage to an unmanned aircraft or unmanned aircraft system,  
4     if the damage was caused while the emergency responder was  
5     providing, and the unmanned aircraft or unmanned aircraft system  
6     was interfering with, the operation, support, or enabling of the  
7     emergency services listed in Section 853 of the Government Code.  
8     (b) (1) For purposes of this section, “emergency responder”  
9     means either of the following, if acting within the scope of authority  
10    implicitly or expressly provided by a public entity or a public  
11    employee to provide emergency services:  
12    (A) A paid or unpaid volunteer.  
13    (B) A private entity.  
14    (2) All of the following terms shall have the same meaning as  
15    the terms as used in Chapter 4.5 (commencing with Section 853)  
16    of Part 2 of Division 3.6 of Title 1 of the Government Code:  
17    (A) Public employee.  
18    (B) Public entity.  
19    (C) Unmanned aircraft.  
20    (D) Unmanned aircraft system.  
21    ~~SECTION 1.~~  
22    SEC. 2. Chapter 4.5 (commencing with Section 853) is added  
23    to Part 2 of Division 3.6 of Title 1 of the Government Code, to  
24    read:

1 CHAPTER 4.5. ~~EMERGENCY RESPONDERS~~ UNMANNED AIRCRAFT

2  
3 853. ~~An emergency responder~~ *A public entity or public*  
4 *employee* shall not be liable for any damage to an *unmanned*  
5 *aircraft or* unmanned aircraft system, if the damage was caused  
6 while the ~~emergency responder~~ *public entity or public employee*  
7 was providing, and the *unmanned aircraft or* unmanned aircraft  
8 system was interfering with, the operation, support, or enabling  
9 of any of the following emergency services:

10 (a) ~~Ambulance~~ *Emergency medical services or ambulance*  
11 *transport* services, including, but not limited to, air ambulance  
12 services.

13 (b) Firefighting or firefighting-related services, including, but  
14 not limited to, air services related to firefighting or  
15 firefighting-related services.

16 (c) Search and rescue services, including, but not limited to, air  
17 search and rescue services.

18 853.5. The following definitions shall apply to this chapter:

19 (a) ~~“Emergency responder” means a public entity, a public~~  
20 ~~employee, or an unpaid volunteer, acting within the scope of~~  
21 ~~authority implicitly or expressly provided by a public entity or~~  
22 ~~public employee to respond to an emergency situation.~~

23 (b)

24 (a) “Unmanned aircraft” means an aircraft that is operated  
25 without the possibility of direct human intervention from within  
26 or on the aircraft.

27 (c)

28 (b) “Unmanned aircraft system” means an unmanned aircraft  
29 and associated elements, including, but not limited to,  
30 communication links and the components that control the  
31 unmanned aircraft that are required for the pilot in command to  
32 operate safely and efficiently in the national airspace system.

33 ~~SEC. 2.~~

34 SEC. 3. Section 402.5 is added to the Penal Code, to read:

35 402.5. (a) It is unlawful to knowingly, intentionally, or  
36 recklessly operate an unmanned aircraft or unmanned aircraft  
37 system in a manner that prevents or delays the extinguishment of  
38 a fire, or in any way interferes with the efforts of firefighters to  
39 control, contain, or extinguish a fire, including, but not limited to,  
40 efforts to control, contain, or extinguish the fire from the air. A

1 violation of this section is punishable by imprisonment in a county  
2 jail not to exceed six months, by a fine not to exceed five thousand  
3 dollars (\$5,000), or by both that imprisonment and fine.

4 (b) (1) For purposes of this section, “unmanned aircraft” means  
5 an aircraft that is operated without the possibility of direct human  
6 intervention from within or on the aircraft.

7 (2) For purposes of this section, “unmanned aircraft system”  
8 means an unmanned aircraft and associated elements, including,  
9 but not limited to, communication links and the components that  
10 control the unmanned aircraft that are required for the individual  
11 in command to operate safely and efficiently in the national  
12 airspace system.

13 (3) For purposes of this section, “recklessly” means a person is  
14 aware of and consciously disregards a substantial and unjustifiable  
15 risk that his or her act will prevent or delay the extinguishment of  
16 a fire, or in any way interfere with the efforts of firefighters to  
17 control, contain, or extinguish a fire, including, but not limited to,  
18 efforts to control, contain, or extinguish the fire from the air. The  
19 risk shall be of such nature and degree that disregard of that risk  
20 constitutes a gross deviation from the standard of conduct that a  
21 reasonable person would observe in the situation. A person who  
22 creates such a risk but is unaware of that risk solely by reason of  
23 voluntary intoxication also acts recklessly for purposes of this  
24 section.

25 ~~SEC. 3.~~

26 *SEC. 4.* No reimbursement is required by this act pursuant to  
27 Section 6 of Article XIII B of the California Constitution because  
28 the only costs that may be incurred by a local agency or school  
29 district will be incurred because this act creates a new crime or  
30 infraction, eliminates a crime or infraction, or changes the penalty  
31 for a crime or infraction, within the meaning of Section 17556 of  
32 the Government Code, or changes the definition of a crime within  
33 the meaning of Section 6 of Article XIII B of the California  
34 Constitution.

35 ~~SEC. 4.~~

36 *SEC. 5.* This act is an urgency statute necessary for the  
37 immediate preservation of the public peace, health, or safety within  
38 the meaning of Article IV of the Constitution and shall go into  
39 immediate effect. The facts constituting the necessity are:

1 To address the interference of unmanned aircraft *and unmanned*  
2 *aircraft systems* with efforts to fight fires and to keep fires from  
3 raging out of control during this historic drought, and to protect  
4 *public and private* emergency responders who are providing  
5 specific critical emergency services from potential civil liability  
6 relating to the new and increasing proliferation of unmanned  
7 aircraft systems that disrupt the provision of those emergency  
8 services, it is necessary that this act take effect immediately.

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